

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES**

IN THE MATTER OF:

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████████████████████

Reg. No.: 2013-69026
Issue No.: 1038; 3029; 4001
Case No.: ██████████
Hearing Date: October 23, 2013
County: Wayne (17)

ADMINISTRATIVE LAW JUDGE: Eric Feldman

HEARING DECISION

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a telephone hearing was held on October 23, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department or DHS) included ██████████ ██████████ Partnership. Accountability. Training. Hope. (PATH) Coordinator, and ██████████ Supervisor.

ISSUES

Whether the Department properly closed Claimant's case for Family Independence Program (FIP) benefits based on Claimant's failure to participate in employment and/or self-sufficiency related activities without good cause?

Whether the Department properly reduced Claimant's Food Assistance Program (FAP) benefits based on Claimant's failure to participate in employment and/or self-sufficiency related activities without good cause?

Did the Department fail to process Claimant's State Disability Assistance (SDA) application?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Claimant was an ongoing recipient of FAP and FIP benefits. See Exhibit 2.

2. On May 9, 2013, Claimant's physician completed a Medical Needs – PATH (DHS-54E) document. See Exhibit 1.
3. Between July 2013 and September 2013, the Department received Claimant's medical records on two separate occasions from her physician. See Exhibit 1.
4. Claimant failed to participate in employment and/or self-sufficiency related activities without good cause in July 2013.
5. On August 2, 2013, the Department sent Claimant a Notice of Case Action closing Claimant's FIP case, effective September 1, 2013, based on a failure to participate in employment and/or self-sufficiency related activities without good cause. Exhibit 2.
6. On August 2, 2013, the Notice of Case Action also notified the Claimant that her FAP benefits were reduced effective September 1, 2013, in the amount of \$200 because she failed to participate in employment and/or self-sufficiency related activities without good cause. Exhibit 2.
7. On August 2, 2013, the Department mailed Claimant a Notice of Noncompliance scheduling Claimant for a triage appointment on August 8, 2013. Exhibit 2.
8. On August 8, 2013, Claimant failed to attend the triage appointment and the Department found no good cause for Claimant's failure to attend employment and/or self-sufficiency related activities.
9. On August 19, 2013, Claimant requested a hearing disputing her FIP termination, FAP reduction, and the Department's failure to process her SDA application. Exhibit 1.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), Department of Human Services Reference Tables Manual (RFT), and Department of Human Services Emergency Relief Manual (ERM).

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10 and 400.57a and Mich Admin Code, R 400.3101 to .3131.

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food Stamp Act of 1977, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 271.1 to 285.5. The

Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10 and Mich Admin Code, R 400.3001 to .3015.

The State Disability Assistance (SDA) program is established by the Social Welfare Act, MCL 400.1-.119b. The Department of Human Services (formerly known as the Family Independence Agency) administers the SDA program pursuant to MCL 400.10 and Mich Admin Code, R 400.3151-.3180.

FIP benefits

Federal and state laws require each work eligible individual (WEI) in the FIP group to participate in PATH or other employment-related activity unless temporarily deferred or engaged in activities that meet participation requirements. BEM 230A (January 2013), p. 1. These clients must participate in employment and/or self-sufficiency related activities to increase their employability and obtain employment. BEM 230A, p. 1. PATH participants will not be terminated from PATH without first scheduling a triage meeting with the client to jointly discuss noncompliance and good cause. BEM 233A (January 2013), p. 7. Good cause is determined during triage. BEM 233A, p. 7. Good cause is a valid reason for noncompliance with employment and/or self-sufficiency related activities that are based on factors that are beyond the control of the noncompliant person and must be verified. BEM 233A, p. 3. Good cause includes any of the following: employment for 40 hours/week, physically or mentally unfit, illness or injury, reasonable accommodation, no child care, no transportation, illegal activities, discrimination, unplanned event or factor, long commute or eligibility for an extended FIP period. BEM 233A, pp. 3-5.

In this case, Claimant was an ongoing recipient of FIP benefits. See Exhibit 2. At the hearing, the Department testified that Claimant failed to participate in employment and/or self-sufficiency related activities without good cause in July 2013. Specifically, the Department testified that Claimant failed to submit her job search logs for the week of July 8, 2013. Due to Claimant's failure to submit the logs, the PATH program scheduled a re-engagement appointment with the Claimant on July 26, 2013. Claimant failed to attend her re-engagement appointment. Due to her failure to attend the re-engagement appointment, on August 2, 2013 the Department mailed Claimant a Notice of Noncompliance scheduling Claimant for a triage appointment on August 8, 2013. Exhibit 2. Also, on August 2, 2013, the Department sent Claimant a Notice of Case Action closing Claimant's FIP case, effective September 1, 2013, based on a failure to participate in employment and/or self-sufficiency related activities without good cause. Exhibit 2.

Before the triage, the Department testified that it attempted to contact Claimant for the triage based on the phone numbers in her case file. However, the Department testified that it was unsuccessful in contacting the Claimant. Nevertheless, a triage was conducted. On August 8, 2013, Claimant failed to attend the triage appointment and the Department found no good cause for Claimant's failure to attend employment and/or self-sufficiency related activities.

At the hearing, Claimant testified that she completed the logs, but did not submit them. Claimant testified that due to her medical conditions and transportation issues that she was unable to go to the PATH program. Also, Claimant testified that she contacted her PATH caseworker stating that she was sick and could not attend her re-engagement appointment.

Moreover, Claimant testified that she e-mailed the Department regarding the triage and received no response back. The Department testified that it never received an e-mail from the Claimant.

Nevertheless, during the hearing, Claimant alleged several medical conditions. As part of the evidence packet, there was a Medical Needs – PATH (DHS-54E) document completed by Claimant's physician on May 9, 2013. See Exhibit 1. It should be noted that Claimant testified that another Medical Needs – PATH document was completed by her physician in July 2013; however, no such document was presented. Also, part of the evidence packet was Claimant's medical records that the Department received on two separate occasions from her physician between July 2013 and September 2013. See Exhibit 1.

The Department testified that a review of the Medical Needs – PATH document clearly states that Claimant can attend the PATH program, but with limitations. Also, the Department testified that its supervisor reviewed the medical packet submitted and determined Claimant is work ready. Ultimately, the Department testified that it did not forward her medical packet to the Medical Review Team because the evidence indicated that she was work ready.

A review of the Medical Needs – PATH document does indicate that her physician did indicate that she is work ready, but with limitations. See Exhibit 1. However, Claimant's physician also indicated that her limitation is expected to last more than 90 days. See Exhibit 1. The form also indicated for her to sit less than 6 hours in an 8-hour workday and that she should stand and/or walk less than 2 hours in an 8-hour workday. See Exhibit 1.

At intake, redetermination or anytime during an ongoing benefit period, when an individual claims to be disabled or indicates an inability to participate in work or PATH for more than 90 days because of a mental or physical condition, the client should be deferred in the system. BEM 230A, p. 9. Conditions include medical problems such as mental or physical injury, illness, impairment or learning disabilities. BEM 230A, p. 9.

Determination of a long-term disability is a three step process. BEM 230A, p. 10. The client must fully cooperate with both steps. BEM 230A, p. 10. For step one, once a client claims a disability he/she must provide DHS with verification of the disability when requested. BEM 230A, p. 10. The verification must indicate that the disability will last longer than 90 calendar days. BEM 230A, p. 10. For step two, verified disabilities over 90 days, the specialist must submit a completed medical packet and obtain a MRT decision. BEM 230A, p. 10. Step three involves the referral to MRT. See BEM 230A,

pp. 10-11. Upon the receipt of the MRT decision, the Department reviews the determination and information provided by MRT. BEM 230A, p. 11. The Department establishes the accommodations the recipient needs to participate in PATH or to complete self sufficiency-related activities. BEM 230A, p. 11.

Based on the foregoing information and evidence, the Department improperly closed Claimant's FIP benefits effective September 1, 2013, ongoing. As previously stated, the Medical Needs – PATH form indicated that she is work ready with limitations, but it also indicated that her limitation is expected to last more than 90 days. See Exhibit 1. BEM 230A states when an individual claims to be disabled or indicates an inability to participate in work or PATH for more than 90 days because of a mental or physical condition, the client should be deferred in the system. BEM 230A, p. 9. The Medical Needs – PATH form clearly indicates there is a disability and/or limitation that is expected to last more than 90 days. Additionally, the Medical Needs – PATH form also provides additional evidence under the standing/walking and sitting portion completed by the physician that indicates a possibility that Claimant is unable to participate in work or PATH for more than 90 days. See Exhibit 1. Even though there is contradictory evidence present, the Medical Needs – PATH form should have been forwarded to MRT for a decision because the verification indicates the disability will last longer than 90 calendar days. See BEM 230A, pp. 10-11.

Additionally, the Department testified that its supervisor reviewed the submitted medical documents and determined she is work ready. That information should have also been forwarded to MRT for a decision. See BEM 230A, pp. 10-11.

In summary, the Department received the Medical Needs – PATH document and medical packet before the scheduled triage. There was enough evidence provided by Claimant for her to be deferred from PATH pending a MRT decision. Therefore, the Department did not act in accordance with Department policy when it closed Claimant's FIP case for a three-month minimum. BEM 233A, pp. 1 and 6.

FAP benefits

On August 2, 2013, the Notice of Case Action also notified the Claimant that her FAP benefits were reduced effective September 1, 2013, in the amount of \$200 because she failed to participate in employment and/or self-sufficiency related activities without good cause. Exhibit 2.

Based on the above FIP analysis, the Department did not act in accordance with Department policy when it found that Claimant failed to comply with employment-related activities without good cause and sanctioned Claimant's FIP case by closing it for a minimum three-month period. See BEM 233A, p. 6. Because the Department improperly closed Claimant's FIP case, it improperly reduced Claimant's FAP benefits by excluding her as a disqualified member of the FAP group. BEM 233B (January 2013), pp. 1 - 9.

SDA application

On August 19, 2013, Claimant requested a hearing disputing that the Department failed to process her SDA application. Exhibit 1. Claimant asserted that she applied for SDA benefits on April 2, 2013. See Request for Hearing, Exhibit 1. Claimant testified that she had never received any response to her application.

During the hearing, the Department presented evidence that Claimant did not apply for SDA and/or cash benefits on April 2, 2013. The Department presented a Program Request – Details screen/summary, which indicated that Claimant applied for cash benefits on February 16, 2012, and September 26, 2013. See Exhibit 2.

Based on the foregoing information, the Department presented credible evidence that Claimant did not apply for cash and/or SDA benefits. A review of the evidence indicates that the Department did not receive an application for cash/SDA benefits on April 2, 2013.

Additionally, even if Claimant applied for cash/SDA benefits, she would not be eligible.

The Family Independence Program (FIP), Refugee Cash Assistance (RCA) and State Disability Assistance (SDA) are cash assistance programs designed to help individuals and families become self-sufficient. BEM 209 (November 2012), p. 1. When an individual applies for cash assistance, the Department determines group composition and builds an eligibility determination group (EDG) for these programs in the following order: FIP, RCA and SDA. BEM 209, p. 1. Cash assistance is available to eligibility determination groups who meet all of the non-financial and financial requirements that are needed to determine eligibility and calculate benefit amounts. BEM 209, p. 1. SDA is a cash program for individuals who are not eligible for FIP and are disabled or the caretaker of a disabled person. BEM 214 (January 2010), p. 1.

Based on the above information, Claimant would not be eligible for SDA benefits in April 2013, ongoing. A review of Claimant's Eligibility Summary indicated that she was a recipient of FIP benefits for April 2013, ongoing. See Exhibit 2. BEM 214 clearly states that SDA is a cash program for individuals who are not eligible for FIP and are disabled or the caretaker of a disabled person. BEM 214, p. 1. Because Claimant was a FIP recipient at the time of the alleged SDA application, she was not eligible. This would be harmless error if the Department failed to process her application because she is not eligible. Nevertheless, the Department provided credible evidence and testimony that it did not fail to process Claimant's SDA application. There was no evidence presented that Claimant applied for SDA benefits on April 2, 2013.

DECISION AND ORDER

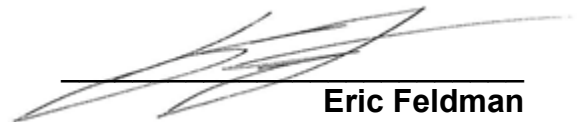
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department (i) did not act properly when it closed Claimant's FIP case effective September 1, 2013, ongoing; (ii) did not act properly when it reduced Claimant's FIP benefits effective

September 1, 2013, ongoing; and (iii) the Department provided credible evidence and testimony that it did not fail to process Claimant's alleged SDA application on April 2, 2013.

Accordingly, the Department's FIP and FAP decisions are REVERSED and the Department's SDA decision is AFFIRMED.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Remove Claimant's first FIP and FAP sanction from her case;
2. Remove Claimant's disqualification for her FAP benefits;
3. Gather the new medical verifications and send it to MRT for an updated decision;
4. Reinstate Claimant's FIP case as of September 1, 2013, ongoing;
5. Begin recalculating the FIP and FAP budget for September 1, 2013, ongoing, in accordance with Department policy;
6. Issue supplements for FIP and FAP benefits that Claimant was entitled to receive if otherwise eligible and qualified for September 1, 2013, ongoing, in accordance with department policy; and
7. Notify Claimant in writing of its FIP and FAP decisions in accordance with Department policy.



Eric Feldman
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: November 1, 2013

Date Mailed: November 1, 2013

NOTICE OF APPEAL: The claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely Request for Rehearing or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

Michigan Administrative Hearing System (MAHS) may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. MAHS will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request (60 days for FAP cases).

A Request for Rehearing or Reconsideration may be granted when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The Department, AHR or the claimant must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date the hearing decision is mailed.

The written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-07322

EJF/cl

cc: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]